



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
203 East Third Avenue
Williamson, WV 25661

Bill J. Crouch
Cabinet Secretary

M. Katherine Lawson
Inspector General

February 8, 2018

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO. 17-BOR-2898

Dear Ms. [REDACTED]

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

In arriving at a decision, the State Hearing Officer is governed by the Public Welfare Laws of West Virginia and the rules and regulations established by the Department of Health and Human Resources. These same laws and regulations are used in all cases to assure that all persons are treated alike.

You will find attached an explanation of possible actions you may take if you disagree with the decision reached in this matter.

Sincerely,

Stephen M. Baisden
State Hearing Officer
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision
Form IG-BR-29

cc: Robert Meade, Family Support Specialist
[REDACTED], [REDACTED] WV

**WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES
BOARD OF REVIEW**

████████████████████

Appellant,

v.

ACTION NO. 17-BOR-2898

**WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES,**

Respondent.

DECISION OF STATE HEARING OFFICER

INTRODUCTION

This is the decision of the State Hearing Officer resulting from a fair hearing for ██████████. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' (WV DHHR) Common Chapters Manual. This fair hearing was convened on February 7, 2018, on an appeal filed December 1, 2017.

The matter before the Hearing Officer arises from the November 22, 2017, decision by the Respondent to deny the Appellant's application for the Medicaid Buy-In program, due to excessive income.

At the hearing, the Respondent appeared by Robert Meade, Family Support Specialist at the WV DHHR, ██████████ County Office. The Appellant appeared *pro se*. The participants were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Letter from Department to Appellant, dated November 22, 2017
- D-2 West Virginia Income Maintenance Manual (WV IMM) Chapter 4, Appendix A
- D-3 Collection of Screen Prints from Appellant's WV DHHR Case Record, including Case Summary, Medicare Information, Social Security Confirmation, Employment Income and Case Recordings
- D-4 Letter from Department to Appellant, dated December 4, 2017

Appellant's Exhibits:

None

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence during the hearing, and after assessing the credibility of all witnesses and weighing the evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

FINDINGS OF FACT

- 1) On November 21, 2017, the Appellant submitted to the DHHR, ██████████ County office, an application for Medicare Buy-In, to determine if she met the eligibility requirements for this group of programs which pays for a Social Security recipient's Medicare premium.
- 2) The Appellant's Medicare Buy-In application reported two income sources for her household, \$1156 per month Social Security for her and \$1563.48 per month earned income for her husband.
- 3) The Department deemed one half of the husband's monthly earned income, less a \$65 earned income disregard, to the Appellant's income calculations. This amount is calculated as follows: $\$1563.48 - \$65 = \$1498.48$; $\$1498.48 \div 2 = \749.24 , the amount deemed to the Appellant.
- 4) The Appellant's monthly income was determined to be \$1156 Social Security + \$749.24 deemed earned income from her husband, or \$1905.24.
- 5) Each applicant for Medicare Buy-In receives a \$20 income disregard, so the amount of the Appellant's income counted toward her eligibility for these programs is \$1905.24 minus \$20, or \$1885.24 (Exhibit D-1, page 3).
- 6) On November 22, 2017, the Department sent the Appellant a letter (Exhibit D-1) informing her that her application for Medicare Buy-In was denied.
- 7) The Appellant requested a fair hearing to protest the denial of her application for the Medicare Buy-in program.

APPLICABLE POLICY

The West Virginia Income Maintenance Manual (WV IMM) Chapter 4, §4.12.1 reads as follows in part:

Countable income is determined as follows:

- Step 1: Determine the total non-excluded gross unearned income and subtract the appropriate disregards and deductions.

- Step 2: Determine the total non-excluded gross earned income and subtract the appropriate disregards and deductions.
- Step 3: Add unearned income from Step 1 above to determine the total monthly countable income.
- Step 5: Compare the amount in Step 3 to the QMB, SLIMB or QI-1 income levels for the appropriate number of persons. If the amount is less than or equal to the QMB, SLIMB or QI-1 income levels, the client is eligible.

Eligibility for these coverage groups is determined as follows:

QMB – Income is less than or equal to 100% [of the Federal Poverty Level or] FPL.

SLIMB – Income is greater than 100% FPL, but less than or equal to 120%.

QI-1 – Income is greater than 120% FPL, but less than or equal to 135%.

WV IMM Chapter 4, §4.14.2.A.2 reads, “\$65 and half of the remainder are subtracted from earned income and from gross profit from self-employment earnings.”

DISCUSSION

Medicare Buy-In encompasses three separate WV Medicaid programs that pay a recipient’s Medicare premium each month. These three programs are: Qualified Medicare Beneficiary (QMB), Specified Low-Income Medicare Beneficiary (SLIMB) and Qualified Individual Medicare Assist (QI-1).

The income limit for two persons for QMB is less than or equal to 100% of the Federal Poverty Level, or \$1354 per month.

The income limit for two persons for SLIMB is greater than 100% of the Federal Poverty Level but less than or equal to 120%, or \$1355 to \$1624 per month.

The income limit for one person for QI-1 is greater than 120% of the Federal Poverty Level but less than or equal to 135%, or \$1625 to \$1828 per month.

The Department determined that the Appellant’s total monthly income, including her Social Security and the amount of her husband’s earned income deemed to her, was \$1905.24 per month. An applicant for any of these programs receives a \$20 income disregard, so the amount counted toward the Appellant’s application was \$1885.24. This amount is higher than the maximum for the Medicare Buy-In program with the highest income limit, QI-1. The Department acted correctly to deny the Appellant’s application for the Medicare Buy-In program.

CONCLUSION OF LAW

The Appellant's monthly adjusted gross income, \$1885.24, is above the income level for QI-1 Medicaid, according to WV IMM Chapter 4, §§4.12.1, 4.14.2.A.2 and Chapter 4, Appendix A.

The Department acted correctly to deny the Appellant's application for the Medicare Buy-in program.

DECISION

It is the decision of the State Hearing Officer to UPHOLD the Department's decision to deny the Appellant's application for Medicare Buy-In.

ENTERED this 8th Day of February 2018.

**Stephen M. Baisden
State Hearing Officer**